

STATE OF VERMONT

HUMAN SERVICES BOARD

In re) Fair Hearing No. 15,314
)
Appeal of)

INTRODUCTION

The petitioner appeals a decision of the Department of Social Welfare denying her fuel assistance under the Home Heating Fuel Assistance Program based on the lateness of her application.

FINDINGS OF FACT

1. The petitioner is a single woman who lived with and cared for her elderly mother until her mother's death on June 20, 1997. Thereafter she put her mother's house on the market because she could not afford to live there and moved to a mobile home on land upon which she was making payments.

Because she was unable to find work, she could not make payments on the land and was forced to give up the mobile home and move back into her mother's home.

2. The petitioner had difficulty paying the utilities in her mother's home and received a shut-off notice from the electric company in October of 1997. When she called the electric company to make payment arrangements, she was referred to the local community action agency for help. She had never used any of the programs administered by this agency or the Department of Social Welfare prior to this time. She did contact the community action agency in

October and they paid enough money to avoid the electric shut-off. When she started to run out of fuel in late November or early December, she went into the community action office again and asked for help with that utility. She was told that she needed to fill out an application with DSW for the heating fuel program and was given the number to call for an application. She was also told that the deadline may have passed and that she needed to take action right away.

3. The petitioner called the number given to her by the community action and asked for an application. She received the application in the mail a couple of days later.

She filled out the application on December 4, 1997, the day she received it. The application was received on December 15, 1997 in the fuel assistance office. The application form did advise the petitioner that any applications received after November 30 would be denied and that no exceptions would be made. The petitioner read that information but decided that she had grounds for an exception anyway and informed the Department that she was seeking a good cause waiver because there had been a death in her household and she did not know about the application period.

4. On December 22, 1997, the Department mailed the petitioner a notice denying her request for fuel assistance because she had not applied before the deadline. On

December 24, 1997, the fuel assistance program chief mailed a letter to the petitioner confirming her denial but correcting the deadline date which had been erroneously entered on the denial notice as December 31, instead of December 1.

5. Subsequent to that denial, the petitioner again asked for assistance with her fuel from the community action agency. Sometime around Christmas, she received a one hundred gallon delivery through the CAP administered emergency fuel program. At the time of the hearing on January 22, 1998, the petitioner had a half tank of oil left. She was uncertain as to whether she could get further help through the CAP. She also had begun a part-time job a few days before.

ORDER

The decision of the Department is affirmed.

REASONS

Under regulations adopted by the Department for the fuel program, the application period for fuel assistance is July 15 through August 31. W.A.M. 2902.11. The regulations also set out a late filing period under which "applications received after the close of the application period but no later than November 30, may be found eligible only under one of the circumstances listed" in that section. W.A.M. 2902.2.

There is no exception set out for applications filed after November 30.¹

The petitioner does not assert that she filed her application before November 30. Nor does she assert that she was prevented by some action of the Department from making that deadline. She asks only for an extension in her case due to her personal circumstances.

However, compelling her situation might be, the regulations have no provision for flexibility for applications filed after November 30. The fuel assistance program, unlike other programs operated by the Department of Social Welfare, has a static level of funding and benefit levels for all applicants are based on the total number of applicants found eligible in any hearing season. Benefits are paid twice a season, usually in November and February. See W.A.M. 2907.1. Those who miss the August deadline but who have good cause for filing during September, October and November can be included in the calculations for the February benefit to be paid to all eligible households. The Department needs to know by a date certain how many applicants there are in total to calculate the level of benefits to be paid to each household. See Social Welfare

¹ The state statute which created this program mandates the application period used here but allows the Department the discretion to accept late applications "only in unanticipated circumstances and for good cause show..." 33 V.S.A. § 2606(a) and (b). The statute itself does not set a deadline date for late applications.

Bulletin No. 96-57F, August 27, 1996. There has been no argument made here that the Department's need for a lead time to calculate these benefits is unreasonably reflected in the late filing deadlines. The decision of the Department must be upheld as consistent with its regulations. 3 V.S.A. § 3091(d), Fair Hearing Rule No. 17.

The crisis fuel assistance program exists to alleviate an emergency due to lack of heating capacity for an individual household. W.A.M. 2950. Decisions in this area are individualized and discretionary. W.A.M. 2951. The petitioner has received some assistance under this program.

If she is unable to purchase fuel and faces another heating emergency, she should apply again for that program which continues into April. If she is denied, she can request a fair hearing at that time.

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